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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 8354 OF 2006

Dilip Anant Meher. Petitioner.

vs.

Jayamala Dilip Meher. Respondent.

Mr. S.A. Sawant & H. Kode for petitioner.

Mr. S.C. Thatte for Respondent.

CORAM : A.P. DESHPANDE, J.

DATE : 20th December, 2006.

P.C.

. The learned counsel for the petitioner challenges an order of granting interim maintenance in the sum of Rs. 2000/- to the wife and Rs. 1500/- per month each, to the two children. The case of the petitioner is that he is receiving a salary of Rs. 3000/- per month. The salary certificate is placed on the record of the petition. However, the learned counsel for the respondent raises an objection by contending that the salary certificate was not filed before the Family Court. The learned counsel for the petitioner is not in a position to counter the statement. Hence, I proceed to accept the statement made by the learned counsel

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for the respondent. As the quantum of maintenance has to be fixed by taking into consideration the salary certificate, it would be in the fitness of things if the petitioner moves an appropriate application before the Family Court seeking modification of the order granting interim maintenance by placing on record the salary certificate. The said exercise would be in furtherance of the cause of justice. Vital piece of evidence, such as the salary certificate, cannot be for the first time considered in a writ petition. Hence, request made by the learned counsel for the petitioner to withdraw the writ petition with liberty to file appropriate application seeking modification of the order dated 11.9.2006, by producing on record of the Family Court the salary certificate, is granted. Petition allowed to be withdrawn with liberty as prayed for.

(A.P. Deshpande, J.)